MINUTES

TENNESSEE BOARD OF MEDICAL EXAMINERS

MARCH 15 AND 16, 2005

The meeting was called to order at 8:55a.m., in the Cumberland Room, Ground Floor of the Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37247-1010, by President Dr. David Cunningham. Other members present were: Drs. George Eckles, Barbara Engelhardt, Allen Edmonson, Sam Barnes, Mitchell Mutter, Charles White, Subhi Ali, Michael Zanolli, Ms. Mary Johnson and Ms. Nina Yeiser. Absent member was Mr. Mark Brown. Staff present included: Rosemarie Otto, Executive Director, Dr. Larry Arnold, Medical Director, Marsha Arnold, Unit Manager, Sandra Powell, Administrator and Robert Kraemer, Advisory Attorney.

Minutes

Minutes from the January 18 and 19, 2005, February 4, 2005 teleconference and March 1, 2005 teleconference were reviewed. Dr. Zanolli informed the Board a correction in voting was needed in regards to the March 1, 2005 teleconference. Dr. Mutter made a motion to accept the minutes as corrected and Dr. White seconded the motion. The motion carried unopposed.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers and Physician Assistants were reviewed by the Board. Dr. Mutter made a motion to ratify the approval of licenses and the motion was seconded by Ms. Johnson. The motion carried unopposed. Dr. Engelhardt made a motion to ratify the approval of licenses by the Committee on Clinical Perfusionists. Dr. White seconded the motion. The motion carried. Dr. White made a motion to ratify the approval of licenses by the Acupuncture Committee and Dr. Engelhardt seconded the motion. The motion carried unopposed.

Ratification of new X-Ray Training Programs

There were two training programs requesting approval by the Board to provide X-Ray training for limited X-Ray Operators. The programs were reviewed by Dr. Dan Starnes, past board member and a practicing radiologist. Dr. White made a motion to ratify the approval of Limited Radiological Certification Training (Mid-South Institute of Radiologic Training) to provide limited x-ray training and Dr. Zanolli seconded the motion. The motion carried unopposed. Dr. White made a motion to ratify the approval of Hi-Tech Institute's application to provide a

limited scope x-ray training program in Memphis, Tennessee. Ms. Johnson seconded the motion. The motion carried unopposed.

New Applicant Interview

Raja Ata Atiyah, MD-Dr. Atiyah is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Atiyah's application for the Board. On December 30, 2002, Dr. Atiyah was reprimanded in Illinois regarding malpractice issues. In 1996, Dr. Atiyah moved to Lebanon, where he practiced in Beirut until the end of 2003. In November, 2003, Dr. Atiyah moved back to the United States and obtained a license in Oregon and worked until July, 2004. Since July, 2004 he has applied for licenses in other states including Tennessee. Dr. Atiyah has been out of the country approximately seven (7) years and has worked only a few months since returning to the States. Dr. Atiyah informed the Board of his plan to work in Lawrenceburg, Tennessee. After further discussions, Dr. Zanolli made a motion to grant Dr. Atiyah a license and Dr. Ali seconded the motion. The motion carried unopposed.

Charles S. Drummond, III-Dr. Drummond is applying for a license to practice in Tennessee. Dr. Arnold reviewed Dr. Drummond's application file for the Board. There were adverse actions taken against Dr. Drummond's hospital privileges. Dr. Drummond informed the Board that he does not intend to do cardiac surgery. Dr. Mutter made a motion to grant Dr. Drummond a license with the restriction of no cardiac surgery. Should DR. Drummond seek to have the restriction lifted, he must appear before the Board and show successful completion of a cardiac fellowship. Dr. Engelhardt seconded the motion. The motion carried unopposed.

Kwadwo Gyarteng-Dakwa, MD- Dr. Dakwa was not present for the interview. The Board's decision was to defer Dr. Dakwa's application to the next scheduled meeting. Mr. Kraemer suggested a letter be sent to Dr. Dakwa informing him that this will be his last chance to appear before the Board regarding a license to practice medicine in Tennessee.

Charles S. Paine, Jr.-Dr. Paine is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Paine's application file for the Board. Dr. Paine has not practiced in two years. Dr. Paine informed the Board that he plans to get involved with an outreach ministry for troubled youth. Dr. Paine has had no continuing medical education hours in four or five years. The Board gave Dr. Paine the option to withdraw his application until he could obtain one hundred (100) hours of continuing medical education. Dr. Paine withdrew his application.

Thomas Richard Ryder, MD-Dr. Ryder is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Ryder's application file for the Board. Dr. Ryder had issues with his Alabama license regarding internet prescribing however, his license in Alabama is unencumbered. Dr. Ryder did not correctly mark a question on his application. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation informed the Board that they can get Dr. Ryder into the network and have the monitoring evaluation from the psychiatrist sent directly to TMF. Dr. Engelhardt made a motion to grant Dr. Ryder a license pending a letter from Dr. Gray stating authorization has been given to him to receive the evaluation reports from the psychiatrist. Ms. Johnson seconded the motion. The motion carried unopposed. Dr. Cunningham informed Dr. Ryder that it would be his responsibility to tell the psychiatrist to

submit the documents to TMF. Dr. Zanolli informed Dr. Ryder that he needs to correct his application.

Janice Elizabeth Whitty, MD-Dr. Whitty is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Whitty's application file for the Board and initially requested Dr. Whitty to be interviewed by the full Board. However, Dr. Arnold made some corrections in his report and the unclear items had been resolved. Dr. Whitty informed the Board that she plans on teaching and consulting at Meharry Medical Center. Dr. Eckles made a motion to grant Dr. Whitty a license and Ms. Johnson seconded the motion. The motion carried unopposed.

Mark Christopher Wilson, MD-Dr. Wilson is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Wilson's application file for the Board. Dr. Wilson explained the incident that occurred in 1998 leading to the suspension of his hospital privileges at Tuomey Regional Medical Center located in Pennsylvania. Dr. Wilson stated he has recently completed his residency at Meharry Medical Center and is board eligible for internal medicine. Dr. Wilson informed the Board that he is presently working at the VA hospital in Murfreesboro, Tennessee. Dr. Mutter made a motion to grant Dr. Wilson a license and Dr. White seconded the motion. The motion carried unopposed.

Reinstatement Interviews

Brian Gregory Miller, MD-Dr. Miller is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Miller's application file for the Board and informed the Board of the telephone conversation he had with Dr. Miller. Dr. Miller became angry and accused Dr. Arnold of harassing him. Dr. Mutter asked Dr. Miller to explain the conversation he had with Dr. Arnold. Dr. Miller stated he is a pathologist and has not practiced since 2003 and plans on embarking into internal medicine. Dr. Mutter suggested to Dr. Miller that he would need more training before pursuing a full license in internal medicine. The Board asked Dr. Miller how he acquired 20 hours of continuing medical education within a twenty-four hour period. Dr. White asked Dr. Miller if he has taken any structured continuing medical education hours to which he replied he had not. Dr. Miller informed the Board that he had been on medications. This was not listed on his reinstatement application. Dr. Mutter asked Dr. Miller if he would be willing to work with Dr. Gray and the Tennessee Medical Foundation. Dr. Gray stated that he had spoken with Dr. Miller about two (2) years ago about his situation. Dr. Ali stated that Dr. Miller needs clinical training before he reinstates his medical license that he does not meet the minimal requirements. Mr. Kraemer suggested giving Dr. Miller a license restricted to pathology. Mr. Kraemer gave Dr. Miller the options of the Board granting a license with restrictions, deny the license or withdraw his reinstatement application until he gets additional training. Dr. Miller withdrew his reinstatement application.

Interview re: Seven Year Rule

Jonathan Joe Ellichman, MD-Dr. Ellichman is applying for a license to practice medicine in Tennessee. Dr. Arnold informed the Board that Dr. Ellichman is two (2) months outside the seven year rule. Dr. Cunningham informed Dr. Ellichman that the Board is bound by their

statute and rules. Dr. Ellichman stated he wanted to explain the reason he fell outside the seven year rule. Dr. Cunningham gave Dr. Ellichman the option to withdraw his application, and he did so.

Tammy Vannuyen, MD-Dr. Vannuyen was not present and had not submitted a statement withdrawing her application regarding being outside the seven year rule. Dr. Ali made a motion to defer her application to the next meeting to give Dr. Vannuyen the option to respond and Dr. Zanolli seconded the motion. The motion carried unopposed.

Ratification of Denial of Licenses

Edward Perry Crump, MD-Dr. Crump is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Crump's application file for the Board. Dr. Crump retired his medical license twenty-five (25) years ago and has not responded to the letters mailed to him. Dr. Ali made a motion to defer denial of reinstatement to the next meeting in order to give Dr. Crump time to respond. Dr. White seconded the motion. The motion carried unopposed.

James Eddie McClendon, MD-Dr. McClendon is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. McClendon's application file for the Board. Dr. McClendon was convicted of a felony and excluded from Medicare/Medicaid for twenty (20) years. Dr. McClendon's Georgia license was revoked. Dr. White made a motion to uphold Dr. Arnold's recommendation for denial of licensure. Dr. Engelhardt seconded the motion. The motion carried unopposed.

Ratification of Consent Order

Kevin Trivette, **AT-** Mr. Trivette was present and represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the Consent Order for the Board to review. Mr. Trivette practiced without a license as an Athletic Trainer for five (5) years. Mr. Trivette must pay one-hundred twenty-five dollars (\$125) for each month he practiced without a license. Dr. White made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion carried.

Rule Action

There were no rule actions for this meeting.

Discussions

Dr. Robert Allen addressed the Board about Complementary, alternative and Integrative Medicine Policy (CAIM). Dr. Allen asked the Board to reconsider the position statement adopted on March 1, 2005. Dr. Mutter stated that Alternative medicine is not the same as Chelation and more study is needed on Chelation to make it safe for the general public. Dr. Engelhardt agreed with Dr. Mutter's statement. The Board took no action regarding revisiting their policy statement of March 1, 2005.

Ms. Otto reviewed the 2004 July through December, Limited X-Ray Scope Exam Results for the Board. Dr. White made a motion to send letters regarding below pass rate. Ms. Johnson seconded the motion. The motion carried unopposed.

Mr. Kraemer reviewed the Attorney General's opinion regarding opinion number 05-020. Mr. Kraemer explained that Chiropractors may not in their practices as a treatment modality insert needles with the intent of bringing about the same result as the needle insertion technique applied in the practice of Acupuncture.

Mr. Kosten handed out notes to the Board for review regarding Radiologist Assistants administering sedation. Dr. Zanolli stated there is a difference between Medical X-ray Operators and Radiologist Assistants. Dr. Ali's suggestion was to not change what is already in the Attorney General's office. Dr. Ali made a motion to reaffirm the statement of Rule 0880-9-.08 and Dr. Mutter seconded. The motion carried unopposed.

Ms. Robbie Bell, Director for Health Related Boards stated that the Board needs to designate a member to represent the Board on the Complementary and Alternative Medicine Task Force. Dr. Zanolli was designated to represent the Board.

The Board discussed the Chelation policy initially adopted July, 2000 and revisited by the Board on March 1, 2005. Ms. Johnson made a motion to formally rescind the prior Chelation policy and Dr. Mutter seconded the motion. The motion carried unopposed.

Ms. Otto informed the Board the CBS' 60 Minutes tape regarding a South Carolina physician will be presented at the next scheduled meeting which will be held May, 17 and 18, 2005.

Reports

Budget Report

The budget report was reviewed by the Board. Ms. Otto stated the budget is in surplus but cautioned the Board about upcoming expenses.

Director's Report

There was no report for the Board to review.

Investigation Report

Ms. Lea Phelps, Disciplinary Coordinator, reviewed the Report submitted by the Bureau of Investigation in absence of Ms. Denise Moran, Director.

Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed her disciplinary report for the Board.

Office of General Counsel Report

Mr. Robert Kraemer reviewed his OGC report for the Board. Mr. Kraemer stated the rules are where they were last time. Dr. Zanolli asked Mr. Kraemer about the background check rule. Mr. Kraemer stated the rule will go to rulemaking hearing on March 22, 2005.

"Noteworthy" section for the Internet

The Board did not designate anything for the "Noteworthy" section of the internet.

Adjourned for lunch at 12:00 noon and reconvened in the Cumberland Room at 1:00 p.m.

Disciplinary Action

Cumberland Room:

Panel: Cunningham, Zanolli and Ali

Agreed Order

Carl J. Klein, MD-Dr. Klein was not present nor represented by legal counsel. Ms. Andrea Lea represented the State. The Notice of Charges and proposed Agreed Order were handed out to the panel for review. Dr. Klein's Tennessee medical license was summarily suspended on September 24, 2004. Dr. Klein is charged with violating T.C.A. 63-6-214(b) (1), T.C.A. 63-6-214 (b) (4), T.C.A. 63-6-214 (b) (12), T.C.A. 63-6-214 (b) (14) and T.C.A. 63-6-214 (b) (18). The Agreed Order states that Dr. Klein's license to practice medicine in the State of Tennessee shall continue to be suspended. Dr. Klein shall discontinue self-diagnosis and treatment and immediately establish a personal relationship with a physician to address his abnormal blood test results; he shall complete appropriate treatment under the care of a psychiatrist and cognitive behavioral psychologist. Dr. Klein shall enter into an agreement with the Tennessee Medical Foundation to monitor his treatment (as recommended by the V-CAP evaluation) and compliance with this Agreed Order. Upon completion of the recommended treatment and with the advocacy of the TMF stating that he is safe to practice medicine in a supervised and structured setting, Dr. Klein may petition the Board to lift the suspension and place his license on five (5) years probation under terms and conditions set forth. The request for a change in the status of Dr. Klein's medical license shall have as accompanying exhibits affidavits from his treating psychiatrist, cognitive behavioral psychologist and supervising physician which attest to the fact that in their professional opinions Dr. Klein is mentally and physically fit to safely return to the supervised practice of medicine. Dr. Klein's supervising physician must confirm to the Board that Dr. Klein works directly under his/her supervision, which means that the supervising physician is physically present at all times when Dr. Klein is seeing patients. During the term of the probation, Dr. Klein shall submit to the Board of Medical Examiners quarterly reports from his treating psychiatrist, cognitive behavioral psychologist and personal physician attesting to his continued compliance. The probation shall not be lifted until Dr. Klein personally appears before the Board with proof that he has completed all the requirements of this Agreed Order. Dr. Klein is ordered to pay all actual and reasonable costs associated with the prosecution of this

action before the expiration of the probationary period. While the Tennessee Medical Foundation is not currently an advocate for Dr. Klein, Dr. Roland Gray has agreed to assist him in complying with this Agreed Order. The suspension is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank. Dr. Zanolli made a motion to accept the Agreed Order and Dr. Ali seconded. The motion passed unopposed.

Scott Lewis Hambleton, MD- Dr. Hambleton was present but not represented by legal counsel. Ms. Tamanna Qureshi represented the State. Ms. Qureshi handed out the Notice of Charges, and the proposed Agreed Order to the panel for review. Dr. Hambleton is charged with violating T.C.A. 63-6-214(b) (1), T.C.A. 63-6-214 (b) (2), T.C.A. 63-6-214 (b) (5) and T.C.A. 63-6-214 (b) (20). The Agreed Order states that Dr. Hambleton's license to practice medicine in the State of Tennessee is suspended for a period of three (3) months commencing on the entry date of this Agreed Order. Dr. Hambleton's medical license is placed on probation for a period of five (5) years commencing three (3) months from the entry date of this Agreed Order. Dr. Hambleton shall abstain from the consumption of alcohol, dangerous drugs, or controlled substances in any form, except as prescribed by another physician to him for legitimate and documented therapeutic purposes. If Dr. Hambleton receives alcohol, dangerous drugs, or controlled substances from another physician for the purpose of treating him, Dr. Hambleton shall cause the treating physician to report in writing within forty-eight (48) hours to the Board's Medical Director the medical condition being treated, the substance prescribed, dispensed or administered, the amount of such substance and any refills authorized, or shall have the treating physician provide the Board with a copy of Dr. Hambleton's medical record which substantially reflects this information. Dr. Hambleton shall gain and maintain the advocacy of the Tennessee Medical Foundation and shall cause the TMF, through its director, to submit quarterly reports to the Board's Medical Director with regard to Dr. Hambleton's compliance with the terms and conditions of his contract with the TMF and whether or not he maintains the advocacy of the same. Dr. Hambleton shall pay four (4) Type B Civil penalties in the amount of four hundred dollars (\$400.00) each, assessed for each violation of the Practice Act, for a total of one thousand six hundred dollars (\$1, 600.00) in civil penalties, representing violations of the Tennessee Medical Practice Act or regulations or both in such a manner as to impact directly on the care of patients or the public. Any and all civil penalties shall be paid in full within twelve (12) months of the entry date of this Agreed Order. Dr. Ali made a motion to accept the Proposed Agreed Order and Dr. Zanolli seconded the motion. The motion passed.

Contested Case Hearing

Oscar C. Gaines, MD-Dr. Gaines was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Honorable James A. Hornsby, Administrative Law Judge presided. Ms. Qureshi submitted unclaimed notices mailed to Dr. Gaines and informed the panel that two notices were left at his residence. Ms. Qureshi asked for default. Dr. Ali made a motion to accept the default and Dr. Zanolli seconded the motion. The motion passed. Ms. Qureshi gave her opening statement and handed out the Notice of Charges, Order of 2002 and the Affidavit of Costs to the panel for review. Dr. Gaines is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214(b) (4), T.C.A. 63-6-214(b) (12), T.C.A. 63-6-214(b) (20) and Rules 0880-02-.14(2) (b) (2) and 0880-2-.14(7) (a) of the Official Compilation Rules and Regulations of the State of Tennessee. In May, 2002, the Georgia Board ratified a Consent

Order in which Dr. Gaines' license to practice medicine in that state was placed on probationary status for no less than three (3) years for allowing non-physician personnel to fill out prescription blanks that were previously signed by him. On October 10, 2002, a Board Order disciplining Dr. Gaines' Tennessee medical license became effective. Pursuant to the October 10, 2002 Board Order, Dr. Gaines' license was placed on probation for a period of three (3) years, required to pay costs of the action and required to appear before the Board to have his probation lifted. Dr. Gaines has failed to comply with the requirements of the October 10, 2002 Board Order. In her closing statement, Ms. Qureshi called upon Ms. Lea Phelps, Disciplinary Coordinator for Health Related Boards. Ms. Phelps stated Dr. Gaines does have a disciplinary record. Ms. Qureshi directed the panel to review the affidavit of Cost. Ms. Phelps stated Dr. Gaines was ordered to pay a cost of seven hundred sixty-two dollars (\$762.00) and there is not a record of payment. Ms. Qureshi asked for the revocation of Dr. Gaines Tennessee medical license. The panel went into deliberations. Dr. Ali made a motion to accept the Finding of Facts and Dr. Zanolli seconded the motion. The motion passed unopposed. Dr. Ali made a motion to accept the Causes of Action. Dr. Zanolli seconded. The motion passed. Dr. Dr. Ali made a motion to revoke the medical license of Dr. Gaines. Dr. Zanolli seconded the motion. The motion passed. Dr. Zanolli stated that Dr. Gaines has not made any attempt to comply with the Order and try to save his license. Dr. Ali made a motion to accept the Policy Statement to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Zanolli seconded the motion. The motion passed unopposed.

Marilyn Conner, MD-Dr. Conner was not present nor represent by legal counsel. Mr. Andrae Crimson represented the State. The Honorable James A. Hornsby, Administrative Law Judge presided. Mr. Crimson stated there were letters sent to Dr. Connors' address but were returned undeliverable. Mr. Crimson asked to proceed in default. Dr. Ali made a motion to proceed on the basis of default and Dr. Zanolli seconded the motion. The motion passed. Dr. Conner is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214(b) (4) and T.C.A. 63-6-214 (b) (20). Dr. Conner held a license to practice medicine in Kentucky. In May, 2003 an investigation was conducted into Dr. Conner's practice. Several complaints were received from area Pharmacists stating that Dr. Conner was phoning in controlled substance prescriptions for friends and family members. Dr. Conner had prescribed multiple controlled substances for various individuals that she acknowledged were family members, friends or acquaintances. There were a number of names that Dr. Conner did not recognize. On May 3, 2004 the Kentucky Board filed a Complaint and Emergency Order of Suspension against Dr. Conner's medical license. On July 16, 2004, the Kentucky Board entered into an Agreed Order of Indefinite Restriction with Dr. Conner. Mr. Crimson began his opening statement. The Notice of Charges, Amended Notice of Charges and Kentucky's Agreed Order were handed out to the panel for review. Mr. Crimson explained that the Amended Notice of Charges involved amending the actual date of the hearing. In his closing statement, Mr. Crimson stated there is proof showing Dr. Conner did prescribe to family members and that the State of Tennessee mirrors other states' actions. Mr. Crimson asked that Dr. Conner's Tennessee medical license be suspended until conditions of the Kentucky Order is satisfied and his Kentucky license is restored. The panel went into deliberations. Dr. Ali made a motion to accept the Finding of Facts and Dr. Zanolli seconded the motion. The motion passed. Dr. Zanolli made a motion to amend the current facts and add that the license has not been active since March, 1999. Dr. Ali seconded the motion. The motion passed unopposed. Dr. Zanolli made a motion to accept the Causes of Action and

Dr. Ali seconded the motion. The motion passed. Dr. Ali made a motion to suspend the Tennessee medical license of Dr. Conner until the Kentucky medical license is unencumbered. Dr. Zanolli seconded the motion. The motion passed unopposed. Dr. Ali made a motion to access costs to Dr. Conner and Dr. Zanolli seconded. The motion passed. Dr. Cunningham read the policy statement which protects the health, safety and welfare of the citizens of the State of Tennessee.

Samuel Z. Westerfield, MD-Dr. Westerfield was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The Honorable James A. Hornsby, Administrative Law Judge presided. Ms. Qureshi informed the panel that letters were sent to Dr. Westerfield and were returned undeliverable. Ms. Qureshi asked to proceed in default. Dr. Ali made a motion to proceed in default and Dr. Zanolli seconded. The motion passed unopposed. Ms. Qureshi handed out the Notice of Charges and documentations from the states of Ohio and Illinois to the panel for review. Dr. Westerfield is charged with violating T.C.A. 63-6-214 (b) Dr. Westerfield's Tennessee Medical license expired on November 30, 2003. Dr. Westerfield was licensed by the State of Ohio and the State of Illinois. On June 27, 2001, the State Medical Board of Ohio immediately suspended Dr. Westerfield's license. This suspension was based upon a guilty plea to twelve felony counts of illegal processing of drug documents in the Court of Common Pleas of Fairfield County, Ohio. On September 12, 2001, the State of Ohio entered into a Consent Agreement with Dr. Westerfield. Dr. Westerfield's Ohio license was suspended for an indefinite period of time and interim monitoring conditions and conditions for reinstatement were established. On April 16, 2004, the State of Illinois refused to renew Dr. Westerfield's Illinois license based upon the Ohio disciplinary action. On July 23, 2002 the Board ordered that Dr. Westerfield's Tennessee license to practice as a medical doctor be reinstated with certain conditions, including mandating that he obtain and maintain advocacy with the Tennessee Medical Foundation, appear before the Board at every regularly scheduled meeting for the six (6) month period immediately following this reinstatement to give a progress report to the Board and incorporating the conditions and restrictions as laid out by the State Medical Board of Ohio in its May, 2002, Order. Dr. Westerfield has failed to comply with these conditions and failed to maintain advocacy with TMF. Ms. Qureshi called Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation as a witness. Dr. Gray recalls meeting with Dr. Westerfield two years ago. Dr. Gray informed the panel that Dr. Westerfield does not have advocacy with TMF nor has he received any communications from Dr. Westerfield. Ms. Lea Phelps, disciplinary Coordinator Health Related Boards was called upon to confirm that Dr. Westerfield has a disciplinary record. The Board of Medical Examiners' 2002 and 2003 minutes were handed out to the panel for review. Ms. Qureshi asked to have the charges amended to conform to the proof. The Judge denied the request. Ms. Qureshi made her closing statement and requested Dr. Westerfield's Tennessee medical license be revoked. The panel went into deliberations. Dr. Ali made a motion to accept the Finding of Facts and Dr. Zanolli seconded the motion. The motion passed. Dr. Zanolli made a motion to accept the Causes of Action # 6-22. Dr. Ali seconded. The motion passed unopposed. Dr. Ai made a motion to suspend Dr. Westerfield's medical license for six (6) months to give him a chance to comply with the previous Orders and to obtain advocacy with TMF or his Tennessee Medical license shall be revoked. Dr. Zanolli seconded the motion. The motion passed unopposed. Dr. Cunningham asked if T.C.A. 63-6-214 (b) (2) was included in the Causes of Action. Dr. Ali made a motion to amend the Causes of Action to incorporate paragraph 22 and Dr. Zanolli

seconded the motion. The motion passed. Ms. Qureshi stated that T.C.A. 63-6-214 (b) (2) was included in the Order of 2002 when we mirrored Ohio's Order. The policy statement was read and accepted to protect the health, safety and welfare of the citizens of the State of Tennessee.

Conference Room C, 2nd Floor

Panel: Eckles, White and Mutter

Order Modification

Allen Oladinni, MD-Dr. Oladinni was present and represented by legal counsel, Mr. Frank J. Scanlon. Ms. Laurie Doty represented the State. The Honorable Lynn England, Administrative Law Judge presided. Mr. Scanlon made his introductory remarks followed by Ms. Doty who stated that Dr. Oladinni has a history of not fulfilling the Board of Medical Examiners' requirements as set forth in various orders. Dr. Oladinni is charged with violating T.C.A. 63-6-214 (b) (20). Dr. Oladinni was licensed in the State of Kentucky. Based on allegations that Dr. Oladinni engaged in inappropriate sexual contact, the Kentucky board of Medical Licensure entered into an Agreed Order of Probation on May 30, 1997. Dr. Oladinni's medical license was placed on probation for a period of five (5) years. January 2001, Dr. Oladinni's Tennessee medical license was suspended indefinitely. The Order stated that Dr. Oladinni shall restrict his practice to a hospital, clinic, practitioner's office or location approved by the Medical Director of the Board. Dr. Oladinni shall only render medical care to patients whose care is reviewed and supervised by a Preceptor qualified under the CPEP Education Plan and approved in writing by the Medical Director of the Tennessee Board of Medical Examiners. Dr. Oladinni shall submit to the Board a monthly report from the CPEP Program stating his continuance and satisfactory participation in the CPEP Program. Dr. James Potts, MD, preceptor for Dr. Oladinni in the CPEP Program was called as a witness. The panel asked Dr. Potts questions. Dr. Oladinni testified. Closing arguments were given. Ms. Doty informed the panel that Dr. Oladinni wants to substitute a program in Murfreesboro to replace the CPEP Program and she urged the panel not to allow this substitution. The panel went into deliberations. Dr. Mutter made a motion to keep the Finding of Facts of the previous Order dated September, 2003. The motion was seconded by Dr. Eckles. The motion passed. Dr. Mutter made a motion to add #17 to the Finding of Facts and Dr. Eckles seconded. The motion passed unopposed. Dr. Mutter made a motion to deny the request to substitute the CPEP program. Dr. Eckles seconded. The motion passed unanimously.

Dwayne Knight, MD-Dr. Knight was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the 2001 Agreed Order and Order Modification to the panel for review. Dr. Knight is charged with violating T.C.A. 63-6-214(b) (1), T.C.A. 63-6-214 (b) (10), T.C.A. 63-6-214(b) (12), T.C.A. 63-6-214(b) (14) and T.C.A. 63-6-214(b) (14). Criminal proceedings were initiated against Dr. Knight in the Bradley County Criminal Court. On March 8, 2001, these proceedings culminated in Dr. Knight's plea of guilty to nine (9) counts of writing illegal prescriptions, a class "D" felony offense; eight (8) counts of prescription fraud, a class "A" misdemeanor and five counts of tampering with evidence, a class "C" felony. Dr. Knight was given a sentence of four (4) years probation along with the assessment of \$7, 500.00 in fines. On July 25, 2001, an Agreed Order was entered on

Dr. Knight. The Agreed Order states that Dr. Knight's Tennessee medical is revoked with leave to reapply in accordance with the Board of Medical Examiners Rules, Rule 0880-2.12(1)(e). Dr. Knight shall attend a three day seminar entitled: "Prescribing Controlled Substances", which the seminar is offered at the "Center for Professional Health" at Vanderbilt University Medical Center, in Nashville, Tennessee. This requirement shall be fulfilled by no later than one year from the effective date of the Agreed Order. Proof of attendance shall be submitted to the Board along with the application for a new license. A certificate of attendance shall satisfy this requirement. Dr. Knight shall attend a two-day medical records course offered at Case Western Reserve University in Cleveland, Ohio and the request must be fulfilled no later than one year from the effective date of the Agreed Order. Dr. Knight shall secure fifty (50) hours of family practice courses approved by the American Academy of Family Physicians per year to continue for four (4) years after reinstatement for a total of five (5) years. Dr. Knight shall be required to surrender his DEA permit no later than five (5) days from the effective date of the Agreed Order. Dr. Knight shall secure and maintain psychiatric treatment and provide documentation to the Board upon submission of an application for a new license that he is mentally fit to return to and engage in the practice of medicine. The documentation required herein shall include an independent mental examination report provided by a licensed psychiatrist. Dr. Knight must appear before the Board prior to licensing to answer any questions and provide proof of compliance with the Agreed Order. In the event that Dr. Knight is issued a new license in accordance with the terms and conditions set forth, failure to comply with any of the ongoing CME requirements shall be considered a violation of the Agreed Order for which the Board may impose discipline. Mr. Kraemer informed the panel that Dr. Knight is seeking to change the Order that restricts his practice. Dr. Knight has fulfilled all requirements and is asking to have the restrictions lifted so that he may apply for his DEA permit. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation spoke on behalf of Dr. Knight. Dr. Gray stated that Dr. Knight is still in the TMF program and has a lifetime advocacy. Dr. Gray informed the panel that he has seen considerable growth regarding Dr. Knight's progress and supports him applying for his DEA permit. Dr. Knight stated that he has not been able to practice fully and wants to be able to bill insurance and be able to do his job better. Dr. Mutter made a motion to grant the Order Modification with the lifetime advocacy with TMF. Dr. Eckles seconded the motion. The motion passed.

Adjourned at 5:30 p.m.

March 16, 2005

Cumberland Room

8:45 a.m.

Panel: Cunningham, Ali, Zanolli

Contested Case Hearing

William A. Garrett, MD-Dr. Garrett was not present nor represented by legal counsel. Mr. Andrae Crimson represented the State. The Honorable James A. Hornsby, Administrative

Law Judge presided. Mr. Crimson informed the panel that letters mailed to Dr. Garrett were returned. Mr. Crimson asked for default. Dr. Zanolli made a motion to proceed in default and Dr. Ali seconded. The motion passed unopposed. Mr. Crimson handed out the Notice of Charges, Amended Notice of Charges and Virginia's Order of Reprimand to the panel for review. Dr. Garrett is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214 (b) (4) and T.C.A. 63-6-214 (b) (20). Dr. Garrett violated the Regulations Governing the Practice of Medicine of the Virginia Board of Medicine, in that he willfully refused to provide information as requested by the Department of Health Professions Investigator. On September 20, 2004, Dr. Garrett's Virginia medical license was reprimanded. Mr. Crimson gave his opening statement and informed the panel that Dr. Garrett's behavior is unprofessional. In his closing statement, Mr. Crimson asked that Dr. Garrett's Tennessee medical license be reprimanded and assessed civil penalties. The panel went into deliberations. Dr. Cunningham stated that Dr. Garrett's Tennessee medical license is active until 2006 and a reprimand will not stop him from coming to Tennessee and practicing. Dr. Ali made a motion to accept the Finding of Facts as presented and Dr. Zanolli seconded. The motion passed. Dr. Ali made a motion to accept the Conclusions of Law. Dr. Zanolli seconded. The motion passed unopposed. Dr. Ali and Dr. Cunningham stated they did not feel comfortable with a Reprimand only of Dr. Garrett's license. Dr. Ali made a motion to suspend the Tennessee medical license of Dr. Garrett and Dr. Zanolli seconded. The motion passed. Dr. Ali made a motion to assess three (3) Type B civil penalties in the amount of five hundred (\$500) dollars for a total of fifteen hundred (\$1500) dollars. Dr. Zanolli seconded the motion. The motion passed unopposed. Dr. Cunningham read the policy statement and stated that the suspension corresponds to the action taken against Dr. Garrett's license in another state (except the sanction is more severe), and was done to protect the health, safety and welfare of the citizens of the State of Tennessee. Dr. Ali made a motion to access one Type C civil penalty in the amount of one hundred (\$100) dollars. Dr. Zanolli seconded the motion. The motion passed unopposed.

Michael E. Freeburger, MD- Dr. Freeburger was not present nor represented by legal counsel. Mr. Andrae Crimson represented the State. The Honorable James A. Hornsby, Administrative Law Judge presided. Mr. Crimson informed the panel that a Consent Order was mailed to Dr. Freeburger but he refused to sign and asked to proceed in default. Dr. Zanolli made a motion to proceed with default and Dr. Ali seconded. The motion passed. Dr. Freeburger is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214 (b) (5) and 63-6-214 (b) (20). Dr. Freeburger held a license to practice medicine in Tennessee, Texas, Illinois and Kentucky. On September 24, 1998, Dr. Freeburger was practicing at Paducah Baptist Hospital when one of the staff smelled alcohol. Dr. Freeburger was required to submit blood alcohol testing. The test confirmed that Dr. Freeburger had .114 percent alcohol in his blood stream. Dr. Freeburger was asked to stop practicing and leave the hospital. On January 14, 1999, Dr. Freeburger rear-ended a tractor trailer near Eddyville, Kentucky. Dr. Freeburger was arrested at the scene of the accident and charged with DUI. On July 2, 1999, Dr. Freeburger pled guilty to the DUI charge. On or about October 5, 1999, Dr. Freeburger met with the Medical Director of Kentucky Health Foundation's-Impaired Physicians Program. It was concluded that Physicians Dr. Freeburger was suffering from major depression and alcohol abuse. It was recommended that Dr. Freeburger be involved with the AA 12-Step program; participate in a physicians therapy group; abstain from alcohol and mood altering substances; submit to random biological testing to rule out substance abuse; and be treated for depression. Despite heeding this advice for a period

of time, Dr. Freeburger continued to relapse. On February 16, 2000, Dr. Freeburger surrendered his Kentucky medical license for an indefinite period of time. The Texas Board, in an Agreed Order dated September 7, 2001 found Dr. Freeburger's actions to constitute an inability to practice medicine with reasonable skill and safety to patients because of illness, drunkenness, excessive use of drugs, narcotics, chemicals or another substance, or as a result of any mental or physical condition. Based on the facts of the Texas Agreed Order of September 7, 2001, on April 30, 2004, the Illinois Department sent a Notice of Intent to Refuse to Renew Physician and Surgeon License to Dr. Freeburger. Mr. Crimson handed out the Notice of Charges, Amended Notice of charges, Texas' Order, Kentucky's Order and Illinois' Order to the panel for review. Mr. Crimson asked that paragraph 21 in the Notice of Charges be omitted due to the fact that there is no proof that the DUI was of moral turpitude. In his closing statement, Mr. Crimson asked that Dr. Freeburger's Tennessee medical license be permanently revoked. The panel went into deliberations. Dr. Zanolli made a motion to accept the Finding of Facts and Dr. Ali seconded the motion. The motion passed. Dr. Ali made a motion to accept the Conclusions of Law # 19, 20 and 22. Dr. Zanolli seconded. The motion passed unopposed. Dr. Ali made a motion to revoke the Tennessee medical license of Dr. Freeburger and the motion was seconded by Dr. Zanolli. Dr. Cunningham read the policy statement and stated the action of revocation was done because of the multiple actions in the other states and to protect the health, safety and welfare of the citizens of the State of Tennessee.

Consent Order

William Bentz, MD-Dr. Bentz was not present nor represented by legal counsel. Mr. Andrae Crimson represented the State. The Consent Order was handed out to the panel for review. Dr. Bentz is charged with violating T.C.A. 63-6-214(b) (10) and T.C.A. 63-214(b) (20). On August 18, 2004, Dr. Bentz entered a plea of guilty in the Circuit Court of Newton County, Missouri to the felony offense of fraudently obtaining a controlled substance. As a result of the findings, the Missouri Board revoked Dr. Bentz's Missouri license. The Consent Order states that Dr. Bentz's Tennessee medical license is formally revoked, effective immediately. Dr. Bentz may not petition for a new Tennessee medical license prior to the expiration of at least one (1) full year from the effective date of this Order. At such time Dr. Bentz may apply for a new medical license in the State of Tennessee, he shall be and is hereby required to personally appear before the Board as part of making such application for a new license and present evidence to the Board that his August 18, 2004, conviction in the State of Missouri has been vacated and that he has been found not guilty of the charge and his Missouri medical license is unencumbered and in good standing. Dr. Zanolli made a motion to accept the Consent Order and Dr. Ali seconded the motion. The motion passed unopposed.

Adjourned at 10:00 a.m.

Conference Room C

Panel: Engelhardt, White, Eckles

Agreed Order

Milton Smith, MD-Dr. Smith was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. A proposed Agreed Order was handed out to the panel for review. Dr. Smith is charged with violating T.C.A. 63-6-214 (b) (1). Dr. Smith failed to prepare and/or maintain adequate medical records to document controlled substances he prescribed for certain patients. The Agreed Order states that Dr. Smith's medical license is placed on probation for a period of not less than five (5) years from the effective date of the Order. The terms and conditions of that probation are as follows

- a. That within the first year of the probation, Dr. Smith shall do the following:
 - 1. Attend the prescribing course held at Vanderbilt University; and
 - 2. Attend a record keeping course approved by the Board's Medical Director; and
 - 3. Obtain an evaluation through the Tennessee Medical Foundation.
- b. Dr. Smith shall comply with any recommendations resulting from the evaluation conducted through the Tennessee Medical Foundation.

Dr. Smith shall surrender and not renew his Drug Enforcement Agency Certificate. Dr. Smith may not apply for a new certificate until he personally petitions and appears before the Board and receives permission to do so. Dr. Smith may not file such petition for at least one (1) year from the effective date of the Agreed Order. Upon the successful completion of whatever terms, conditions and time frames are placed on Dr. Smith's license, he must petition for an Order of Compliance and appear before the Board before such Order shall be issued. Dr. Engelhardt made a motion to accept the Agreed Order and Dr. Eckles seconded the motion. The motion passed.

Gary D. Strasberg, MD-Dr. Strasberg was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. A proposed Agreed Order was handed out to the panel for review. Dr. Strasberg is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214 (b) (2) and T.C.A. 63-6-214 (b) (3). Dr. Strasberg was convicted of one count of driving under the influence of an intoxicant in Shelby County, Tennessee on April 28, 2003. Dr. Strasberg failed to report his conviction for driving under the influence of an intoxicant as required on his June 15, 2004 renewal application. The Agreed Order states that Dr. Strasberg's license be placed on probation for a period of not less than five (5) years from the effective date of the Order. Dr. Strasberg shall at all times during probation remain compliant with his aftercare with the Tennessee Medical Foundation. Dr. Strasberg shall cause the Director of the TMF to submit reports to the Board's Medical Director on a quarterly basis for the entire duration of the probation and to authorize that Director to report any and all relapses to the Board. After completion of his contract with TMF, Dr. Strasberg shall enter a lifetime contract with the TMF. Upon successful completion of whatever terms, conditions and time frames are placed on Dr. Strasberg's license pursuant to the Order he must petition for an Order of Compliance and appear before the Board before such Order shall be issued. Dr. Eckles made a motion to accept the Agreed Order and Dr. Engelhardt seconded the motion. The motion passed.

Stephen Edelson, MD-Dr. Edelson was not present nor represented by legal counsel. Ms. Shiva Bozarth represented the State. The Notice of Charges and a proposed Agreed Order were handed out to the panel for review. Dr. Edelson is charged with violating T.C.A. 63-6-214

(b) (1), T.C.A. 63-6-214 (b) (3), T.C.A. 63-6-214 (b)(5), T.C.A. 63-6-214 (b) (12), T.C.A. 63-6-214 (b)(12), T.C.A. 63-6-214 (b)(14), T.C.A. 63-6-214 (b) (17), T.C.A. 63-6-214 (b) (18) and T.C.A. 63-6-214 (b) (20). Dr. Edelson's Georgia license was placed on probation. Dr. Edelson had admitted to improper prescribing and inadequate record keeping. On May 8, 2002, Dr. Edelson was served with an Order for Mental and Physical Evaluation based upon information received by the Board that he had been self-prescribing and had an addiction to benzodiazepines. The Agreed Order states that Dr. Edelson's Tennessee Medical license is hereby revoked. Dr. Engelhardt made a motion to accept the Agreed Order and Dr. Eckles seconded. The motion passed unopposed.

Consent Order

Steven Wade Fath, MD-Dr. Fath was not present nor represented by legal counsel. Ms. Tamanna Qureshi represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Fath is charged with violating T.C.A. 63-6-214 (b) (1) and T.C.A. 63-6-214 (b) (20). Dr. Fath was issued a license to practice medicine in the State of Texas. On November 23, 2002, Dr. Fath was arrested and charged with driving while intoxicated and possession of marijuana. On June 4, 2004, the Texas Board adopted an Agreed Order suspending Dr. Fath's medical license for three (3) years. The Texas Board stayed Dr. Fath's suspension and opted to place his medical license on probation for three (3) years, conditioned upon compliance with several mandated conditions. The Consent Order states that Dr. Fath's Tennessee medical license is suspended for a period of time to run concurrently with any disciplinary action, including suspension and probation, ordered by the June 4, 2004 Texas Agreed Order. Dr. Fath's Tennessee medical license shall be stayed and he is hereby placed on probation for the duration of the stayed suspension of Tennessee medical license on the terms and conditions set forth. Dr. Fath shall abstain from the consumption of alcohol, dangerous drugs, or controlled substances in any form, except as prescribed by another physician to him for legitimate and documented therapeutic purposes. Dr. Eckles made a motion to accept the Consent Order and Dr. Engelhardt seconded. The motion passed unopposed.

Adjourned 10:00 a.m.		
Dr. Allen S. Edmonson, Secretary	Date	
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